REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed December 2, 2004. Reconsideration and allowance of the application and pending claims are respectfully requested.

I.   Claim Rejections - 35 U.S.C. § 102(e)

Claims 1, 3-5, 7-12, and 14-36 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Parthesarathy, et al. ("Parthesarathy," U.S. Pat. No. 6,353,926). Applicant respectfully traverses this rejection.

It is axiomatic that "[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(e).

In the present case, not every feature of the claimed invention is represented in the Parthesarathy reference. Applicant discusses the Parthesarathy disclosure and Applicant's claims in the following.

Parthesarathy discloses a software update notification method. As is described in the Summary of the Invention section of the Parthesarathy reference:

> The invention described herein leverages channel architecture and Open Software Description (OSD) vocabulary to provide a way for the application vendor to subscribe the user to a software update channel that the vendor can use to notify users of software updates as they become available. At the time of installing the application, the user is prompted to subscribe to the software update channel. A

shortcut (.lnk file) that the application installs is created with special information that identifies the application by a unique name. The channel is updated periodically based on the schedule suggested by the channel. When a new update is detected, the software channel delivers the software update to the user's computer and sends notifications by, for example, email or gleaming the icon to indicate that a new software update is now available. Also, the next time the user launches the application through the shortcut (.lnk file), the shell automatically displays the update notification information to the user. (Parthesarathy, column 2, lines 8-25)

Accordingly, Parthesarathy's method alerts users to the availability of software updates. This process is described in more detail in Parthesarathy's Detailed Description. There, Parthesarathy states:

If a new update is detected, in step 106, the software update channel downloads the update information to the user's computer in step 108. When the user next uses the computer or the specific application, the user is notified that a new update is available in step 110. *The computer then queries the user to determine if the user wants to load the new update now* in step 112. *If the user does not want to load the new update, the computer can then inquire if the user may want to load the update in the future* in step 114. If the user does not want to ever load the new update, the computer notes that the update has been received in a registry, in step 116, and returns to step 104 to check periodically for the next software update. However, if it is determined in step 112 that the user wants to load the new update, the new update is loaded in step 118 and the registry is updated to note the version of the software that was loaded in step 116. The computer then returns to step 104 to periodically check for the next software update. It will be appreciated by one skilled in the art that steps 110, 112, 114, and 118 could be skipped by automatically updating the user's

computer every time a new update is detected. (Parthesarathy, column
6, lines 11-31, emphasis added)

From the above-provided excerpt, it is apparent that the Parthesarathy system
queries the user whether he or she would like to load the new update and, if not, queries
the user if he or she would like to load the new update in the future. No other querying
of the user is described by Parthesarathy.

Applicant's claims describe systems, methods, and programs for distributing
software. For example, Applicant's claim 1 provides as follows (emphasis added):

> 1.   A method for distributing software, comprising:
> *querying a user as to the needs of the user*;
> receiving user responses to the query;
> *characterizing the use of the user based upon the user
> responses*; and
> *providing software programs that may be beneficial to the
> user based upon the characterization of the use.*

In regard to this claim, Applicant notes that Parthesarathy does not teach or
suggest "querying a user as to the needs of the user". As is described above,
Parthesarathy instead teaches a method of updating software. In that method, the only
questions asked of the user are whether the user would like to load an update now, or
load the update later. Clearly, such questions do not equate to questioning the user as to
his or her needs.

As a further matter, Applicant notes that Parthesarathy does not teach or suggest
"characterizing the use of the user based upon the user responses" or "providing
software programs that may be beneficial to the user based upon the characterization
of the use", as is also recited in claim 1. Instead, the Parthesarathy method simply

comprises loading the update if the user provides permission, and not loading the update if the user does not provide that permission. Parthesarathy says nothing about "characterizing the use" based upon user responses.

Due to the distinct nature of the Parthesarathy method, the Parthesarathy reference is similarly deficient in anticipating Applicant's other independent claims. For example, in reference to claim 10, Parthesarathy fails to teach or suggest "means for querying a user as to the needs of the user", "means for characterizing the use of the user based upon the user responses", or "means for providing software programs that may be beneficial to the user based upon the characterization of the use". In regard to claim 17, Parthesarathy fails to teach or suggest "logic configured to query a user as to the needs of the user", "logic configured to characterize the use of the user based upon the user responses", or "logic configured to provide software programs that may be beneficial to the user based upon the characterization of the use".

Turning to independent claim 21, Parthesarathy fails to teach or suggest a "method for distributing software for a peripheral device". Specifically, Parthesarathy says nothing of a "peripheral device". For at least that reason, Parthesarathy similarly fails to teach or suggest "querying a user as to what the peripheral device may be used for" or "providing software programs for the peripheral device based upon the user responses".

Regarding independent claim 25, Parthesarathy fails to teach or suggest "querying a user as to what the user wants to accomplish" or "providing software programs based upon the user responses". Again, the Parthesarathy system only queries the user as to whether or not an update can be loaded.

Referring next to independent claim 29, Parthesarathy fails to teach or suggest "querying a user as to the needs of the user", for reasons described in the foregoing,

and "suggesting software programs based upon the user responses". Specifically, Parthesarathy's system makes no suggestions to the user based upon user responses. The only "suggestion" that Parthesarathy's system can be said to make is the implicit suggestion to load an update. Even using such a broad interpretation, however, that "suggestion" is not based upon a user response.

Finally, regarding independent claim 33, Parthesarathy fails to teach or suggest "determining tasks a user wishes to accomplish from responses provided by the user" or "installing software programs based upon the determination". Stated simply, Parthesarathy makes no determinations as to what a user wishes to accomplish, and therefore cannot install programs based upon that determination.

Due to the shortcomings of the Parthesarathy reference described in the foregoing, Applicant respectfully asserts that Parthesarathy does not anticipate Applicant's claims. Therefore, Applicant respectfully requests that the rejection of these claims be withdrawn.

II.   Claim Rejections - 35 U.S.C. § 103(a)

A.   Rejection of Claim 2

Claim 2 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Parthesarathy in view of Bradford (U.S. Pat. No. 6,678,679). Applicant respectfully traverses this rejection.

As is identified above in reference to independent claim 1, Parthesarathy does not teach several of Applicant's explicit claim limitations. In that Bradford does not remedy the deficiencies of the Parthesarathy reference, Applicant respectfully submits that claim 2, which depends from claim 1, is allowable over the Parthesarathy/Bradford combination for at least the same reasons that claim 1 is allowable over Parthesarathy.

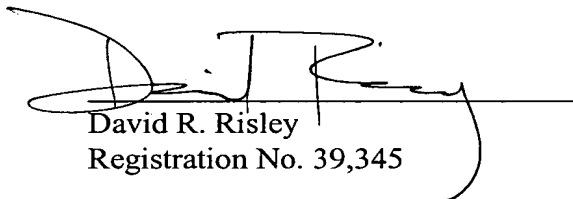**B.** **Rejection of Claims 6, 13, and 19**

Claims 6, 13, and 19 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over <u>Parthesarathy</u>. Applicant respectfully traverses this rejection.

As is identified above in reference to independent claims 1, 10, and 17, Parthesarathy does not teach several of Applicant's explicit claim limitations. Applicant therefore respectfully submits that dependent claims 6, 13, and 19 are allowable over Parthesarathy for at least the same reasons that respective independent claims 1, 10, and 17 are allowable over Parthesarathy.

CONCLUSION

Applicant respectfully submits that Applicant's pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Assistant Commissioner for Patents, Alexandria, Virginia 22313-1450, on

2-28-05

Mary Meegan

Signature